

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION, AT DAYTON

CARL E. COLEMAN,

Case No. 3:20-cv-155

Plaintiff,

vs.

District Judge Thomas M. Rose  
Magistrate Judge Michael J. Newman

COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

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**ORDER: (1) GRANTING THE COMMISSIONER'S THIRD MOTION FOR AN EXTENSION OF TIME (TO SEPTEMBER 18, 2020) IN WHICH TO FILE THE ADMINISTRATIVE RECORD (DOC. 9); (2) DIRECTING THE COMMISSIONER TO FILE THE ADMINISTRATIVE RECORD AS SOON AS IS PRACTICABLE; AND (3) ASSUMING THE ADMINISTRATIVE RECORD CANNOT BE PROMPTLY FILED, ORDERING THE COMMISSIONER TO FILE A STATUS REPORT REGARDING THIS ISSUE ON OR BEFORE SEPTEMBER 18, 2020 -- AND EVERY 30 DAYS THEREAFTER -- UNTIL THE RECORD IS FILED**

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This Social Security disability case is before the Court on the Commissioner's third motion for an extension of time -- to September 18, 2020 -- in which to file the administrative record. Doc. 9. Plaintiff filed a memorandum in opposition, and the Commissioner has submitted a reply. Docs. 11, 13.

The Commissioner's motion is supported by the affidavit of Jebby Rasputnis, Executive Director of the Social Security Administration's ("SSA") Office of Appellate Operations, who attests that while the SSA has steadily increased its capacity to produce administrative records electronically as of July 2020, the process is presently insufficient to meet the agency's workload. Doc. 9-1. Ms. Rasputnis further testifies that the SSA is working to increase its production of administrative records through procurement of additional resources to address staffing and process issues occurring as a result of the COVID-19 global health pandemic. *Id.*

In response, Plaintiff asserts that due to the two prior extensions of times -- totaling 60 days -- and since approximately four years have elapsed from the filing of his administrative claim, the Commissioner should not be granted additional time to file the administrative record. Instead, Plaintiff suggests that, if his counsel is provided with an audio recording of the administrative hearing, counsel can have an independent court reporter assemble an administrative record. Doc. 11 at PageID 37, n. 1.

While the Court is sensitive to the desire of Plaintiff's counsel to timely and efficiently hear this matter -- as is the Court -- the obligation and responsibility to prepare the administrative transcript lies solely, and exclusively, with the Commissioner. *See* 42 U.S.C. § 405(g) (directing the Commissioner to "file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based").

Accordingly, the Commissioner's third motion for an extension of time is **GRANTED** for good cause shown. The Commissioner shall file an administrative record as soon as practicable. If the administrative record cannot be filed on or before September 18, 2020, the Commissioner shall **FILE A STATUS REPORT** on or before September 18, 2020 and every thirty (30) days thereafter until the administrative record is filed in this case.

**IT IS SO ORDERED.**

Date: August 28, 2020

s/Michael J. Newman  
Michael J. Newman  
United States Magistrate Judge